

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RONALD F. DIXON,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

Case No. 17-CV-616-JPS

ORDER

Plaintiff filed his complaint in this matter on May 1, 2017. (Docket #1). The Court denied his motion to proceed without prepayment of the filing fee, *see* (Docket #2 and #4), and on June 20, 2017, the Court received from Plaintiff payment of the full filing fee. Plaintiff has filed nothing further since then, including proof that he has served a summons and a copy of his complaint on Defendant.

On September 29, 2017, Defendant moved for dismissal of Plaintiff's complaint under Federal Rule of Civil Procedure 12(b)(5) because she has not been properly served with a summons and copy of the complaint. (Docket #6). The time for Plaintiff to respond to Defendant's motion to dismiss has expired, and he has filed nothing to oppose or otherwise respond to Defendant's motion.

Federal Rule of Civil Procedure 4 prescribes the requirements for service of process in federal courts. It provides:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the

failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). The ninety-day deadline for Plaintiff to serve a summons and complaint on Defendant expired months ago, and he has not yet even requested a summons for Defendant.

The Court will therefore require that, **within fourteen (14) days of the entry of this Order**, Plaintiff must provide evidence of service or otherwise explain why good cause exists to extend the Rule 4(m) deadline. Defendant's motion to dismiss, (Docket #6), will be denied without prejudice to allow Plaintiff a final opportunity to properly serve Defendant with a summons and complaint. Failure to provide proof of service or a reason to extend the service deadline will result in dismissal of this action without prejudice and without further notice. *See* Fed. R. Civ. P. 4(m).

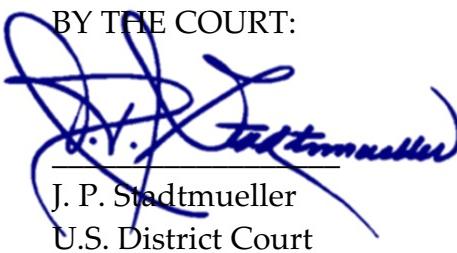
Accordingly,

IT IS ORDERED that Defendant's motion to dismiss (Docket #6) be and the same is hereby **DENIED without prejudice**; and

IT IS FURTHER ORDERED that, **within fourteen (14) days of the entry of this Order**, Plaintiff must provide evidence of service or otherwise explain why good cause exists to extend the Federal Rule of Civil Procedure 4(m) deadline for service.

Dated at Milwaukee, Wisconsin, this 17th day of November, 2017.

BY THE COURT:



J. P. Stadtmueller
U.S. District Court